

REMARKS/ARGUMENTS

By this Amendment, Applicants request correction of the specification and drawings. Applicants also request entry and rejoinder of process claims 21 and 22. After entry of this Amendment, claims 8 and 16-22 are pending in this application. Claims 1-7 and 9-15 were previously canceled. Claims 8 and 16-20 are allowed. Claims 21 and 22 have been added by this Amendment. Support for new claims 21 and 22 is provided in original claims 11, 12 and 13. No new matter has been added.

Amendments To The Specification

The specification has been amended to amend some sequence identifiers (SEQ ID NOs) to conform the instant specification to the sequence listing. In addition, the specification has been amended to conform the descriptions of Figures 1 and 3 to the sequences presented in original Figures 1 and 3. These amendments do not constitute new matter.

Amendments To The Drawings

A replacement drawing sheet containing an amended Figure 14 is enclosed herewith. The original Figure 14 has been amended to conform the sequence presented therein to the description of Figure 14 in the specification. The original Figure 14 presented a sequence of 699 amino acid residues of SEQ ID NO:2. The description of Figure 14 at page 8, lines 3-4 states:

Figure 14 shows the amino acid sequence (SEQ ID NO:14) of a hSMMYHC variant having the sequence of amino acids 1-845 of SEQ ID NO:2.

SEQ ID NO:14 of the sequence listing filed with the application discloses the 845 amino acid residue sequence. Accordingly, Applicants have amended Figure 14 to display the 845 residue sequence of SEQ ID NO:14, which corresponds to residues 1-845 of Figure 2 (SEQ ID NO:2). This amendment of Figure 14 merely conforms the figure to its description in the original specification and does not constitute new matter.

Amendments To The Claims

Applicants request entry and rejoinder of process claims 21 and 22, directed to methods of screening for modulators of hSMMMyHC polypeptides. Addition of new claims 21-22 is needed for proper protection of the claimed invention.

Applicants request entry and rejoinder of new claims 21 and 22 in accordance with MPEP § 821.04 and the TC1600 Restriction Practice Action Plan. During prosecution of this application, product and method of screening claims were restricted into different groups (*see* Office Action dated July 3, 2003). Claims to certain hSMMMyHC polypeptides were restricted into Group III (claims 8-10). Claims 11-13 to a method of screening for modulators hSMMMyHC polypeptides were restricted into Group V. Applicants elected to prosecute the product claims of Group III. During prosecution, Applicants added claims 16-20, which also correspond to Group III.

Product claims 8 and 16-20 to biologically active hSMMMyHC polypeptides now stand allowed. Applicants therefore request entry of new method claims 21 and 22 directed to the method using the hSMMMyHC polypeptides of allowed claims 8 and 16-20 to screen for modulators hSMMMyHC polypeptides. New claims 21 and 22 include all of the limitations of the product claims.

Entry and allowance of new claims 21 and 22 does not present a new issue requiring examination. Because new claims 21 and 22 include all the limitations of allowed claims 8 and 16-20, they are allowable over the art for the same reasons claims 8 and 16-20 stand allowed. Further, because new claims 21 and 22 correspond to previously withdrawn claims 12 and 13, entry and allowance of these claims by this amendment conforms with the TC1600 Restriction Practice Action Plan. Thus, Applicants submit entry of allowance of new claims 21 and 22 is proper.

Conclusion

If the Examiner believes a telephone conference would expedite entry of this amendment, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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AMENDMENTS TO THE DRAWINGS:

The attached replacement drawing includes changes to Fig. 14. This sheet replaces the original sheet including Fig. 14.

Attachment: Replacement Sheet